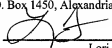


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<p>In re the Patent Application of:</p> <p>Applicant: Steven P. Masterson et al.</p> <p>U.S. Serial No.: 10/591,806 International App. No. PCT/US05/07936</p> <p>U.S. Filing Date: September 6, 2006 IA Filing Date: March 8, 2005</p> <p>Title: Improved Apparatus for Electrically Mediated Delivery of Therapeutic Agents</p>	<p>Confirmation No.: 4733</p> <p>Group Art Unit: 3762</p> <p>Examiner: Not yet assigned</p> <hr/> <p><u>Certificate of Electronic Filing</u></p> <p>I hereby certify that the attached Response to Decision on Petition dated March 22, 2011, and all marked attachments are being deposited by Electronic Filing on May 20, 2011, by using the EFS – Web patent filing system and addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.</p> <p>By:  _____ Lori Ford</p>
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**RESPONSE TO DECISION ON PETITION DATED MARCH 22, 2011**

Applicants hereby submit a Request for Reconsideration of the Petition for Revival in response to the Decision on Petition dated March 22, 2011, along with a Declaration newly executed by all inventors identifying the entire inventive entity. The two-month deadline for response is May 22, 2011. Applicants believe that this response is being timely filed. However, in the event that Applicants are incorrect, please charge any necessary fee to Deposit Account No. 23-2415, referencing Docket No. 34149-712.831.



**REMARKS**

Because Examiner Dombroske has previously indicated his finding that the Petition submitted on June 9, 2009 satisfies the requirements for satisfactory statement of unintentional delay, confirmed that no terminal disclaimer is required, and satisfied the requirements for Deposit Account authorization in the amount of \$810.00, it is believed that the submission of the newly executed Declaration will advance the examination of this application to grant by fully satisfying deficiencies in the previous submissions related to the Petition to Revive this unintentionally abandoned application.

On June 2, 2009, Applicants submitted a Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b) (Petition for Revival). On July 29, 2009, a Decision on Petition (1<sup>st</sup> Petition Decision) was mailed to Applicants. In this 1<sup>st</sup> Petition Decision, Examiner Dombroske found that the petition satisfied the requirements for satisfactory statement of unintentional delay, confirmed that no terminal disclaimer is required, and satisfied the requirements for Deposit Account authorization in the amount of \$810. The 1<sup>st</sup> Petition Decision indicated that the Petition for Revival was denied based on an alteration of inventor Steven Masterson's mailing address on the declaration filed on June 2, 2009, which alteration was not initialed by Mr. Masterson at the time of filing.

In response, on August 6, 2009, Applicants submitted a newly-executed declaration by Mr. Masterson reflecting his correct mailing address with no alterations and paid a second Petition for Revival fee (Renewed Petition for Revival). Applicants further resubmitted the declarations of the other inventors along with a copy of the Petition for Revival as originally submitted on June 2, 2009. Thus, in *both* the Petition for Revival submitted on June 2, 2009, and in the August 6, 2009 Renewed Petition for Revival, the declarations of the entire inventive entity was submitted.

On September 30, 2009, a Decision on Petition (2d Petition Decision) was mailed to Applicants indicating that full inventorship was not disclosed on the new declaration bearing Mr. Masterson's unaltered mailing address. In an effort to advance the Petition for Revival (whether the Petition for Revival or the Renewed Petition for Revival) to grant, Applicants on November 30, 2009 submitted a revised declaration by Mr. Masterson (Second



Declaration) identifying the entire inventive entity on sequential pages, along with a copy of the previously-submitted declaration bearing the un-initialed change to Mr. Masterson's mailing address and the declarations of the other two inventors Mr. Bernard and Mr. Hannaman and a copy of the Petition for Revival as originally submitted on June 2, 2009.

On March 22, 2011, however, a Decision on Petition (3d Petition Decision) was issued, in which Examiner Dombroske asserted that the Declaration of Mr. Masterson appeared to be a copy of an earlier-submitted declaration which was "revised" by affixing thereto a sheet nominating the other two inventors. On the contrary, what was presented to Mr. Masterson when he signed the Second Declaration was the full set of documents, including the declaration itself, Mr. Masterson's signature page which he signed AND the sheet nominating the other two inventors ("Nominating Sheet"). What was deficient in the Renewed Petition for Revival itself appears, thus, to be the fact that the Nominating Sheet was not provided in the Renewed Petition for Revival, however, it was provided to Mr. Masterson, and not later revised in some way.

Regardless of this, however, in order to expedite acceptance of the Renewed Petition for Revival, submitted herein is a NEWLY EXECUTED Declaration by ALL INVENTORS, all of whom were presented with the full set of Declaration documents now attached to this Request for Reconsideration of the Renewed Petition for Revival and/or of the Petition for Revival, and all of whom have properly executed such Declaration.



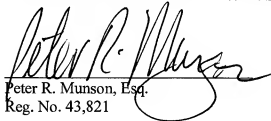
**CONCLUSION**

Applicants respectfully request reconsideration by the Examiner of the Petition for Revival and/or of the Renewed Petition for Revival. It is believed that the instant submission and the newly executed Declaration is sufficient to satisfy the deficiencies previously noted by the USPTO in any Petition decision. For this reason, it is urged that no additional fees should be required for the USPTO to grant this petition. However, in the event that any additional petition fee is deemed necessary, the Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. 23-2415 (Docket No. 34149-712.831).

Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned attorney at (858) 350-2300.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI



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Date: May 20, 2011

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